



LEONIDAS RALPH MECHAM
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

CLARENCE A. LEE, JR.
Associate Director

WASHINGTON, D.C. 20544

April 22, 2005

**MEMORANDUM TO: JUDGES, UNITED STATES BANKRUPTCY COURTS
BANKRUPTCY ADMINISTRATORS**

**SUBJECT: S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005
(INFORMATION)**

On April 20, 2005, the President signed S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, P.L. No. 109-8, 119 Stat. 23. The measure was introduced in the Senate by Senator Charles Grassley (R-IA) on February 1, 2005, and passed by the Senate on March 10. The House quickly passed the Senate bill on April 14, 2005.

The act makes substantial changes to title 11 of the United States Code, and the bankruptcy system nationally. The general effective date is 180 days following enactment. In general, the new law will:

- Institute a 'means test' for chapter 7 debtors, which will require analysis by the attorney for the debtor, the clerk of court, the chapter 7 trustee, and rulings on a new type of 11 U.S.C. § 707(b) motions by the court, change bankruptcy procedure for chapter 13 cases, and change the requirements for individual chapter 11 cases;
- Amend the appellate structure for bankruptcy cases;
- Amend the bankruptcy filing fees and re-apportion the Judiciary's, the U.S. Treasury's, and the Department of Justice's percentages of those fees, as described in a memorandum dated April 18, 2005, from George H. Schafer to all bankruptcy clerks;
- Institute an *in forma pauperis* filing category, by which debtors may request that the court waive their filing fees;
- Make chapter 12 a permanent feature of the Bankruptcy Code and include "family fishermen" as a new group entitled to relief under that chapter;
- Require the collection of new statistical data for an annual report to Congress;
- Provide for 28 additional temporary bankruptcy judgeships in specified districts;

- Codify the provisions of the UNCITRAL model law on cross-border insolvency as a new chapter 15 of the Bankruptcy Code, governing the manner in which a foreign court or “foreign representative” may enlist the aid of a U.S. bankruptcy court and repealing the current 11 U.S.C. § 304;
- Require changes to CM/ECF to enable parties to file new types or categories of motions, pleadings and other papers with the court, and enable the court to generate new types of notices, in addition to new requirements for the collection and reporting of statistical data by the AO;
- Require, in certain circumstances, that the courts receive and retain copies of debtors’ prior and current year tax returns, and to keep those returns secure from public view; and
- Require substantial changes to the Federal Rules of Bankruptcy Procedure, the Official Bankruptcy Forms, and the Director’s bankruptcy forms.

Efforts are underway at the Administrative Office to identify and implement the provisions of the Act, and to address the changes this legislation will bring, including information and training for the courts. In addition, members of the Advisory Committee on Bankruptcy Rules met yesterday, and the committee expects to recommend interim rules and forms for use by the courts in advance of the Act’s October 17, 2005 effective date. We will keep you apprised of the progress, events, information, and deadlines as they develop.

A handwritten signature in black ink, appearing to read "Leonidas Ralph Mecham". The signature is fluid and cursive, with the first name "Leonidas" being more prominent and the last name "Mecham" following in a similar style.

Leonidas Ralph Mecham

cc: Clerks, United States Bankruptcy Courts